

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDDIE JERMANE LEE, a/k/a
“Wheezy,” ANTIONE DIANDRE
MAXWELL, a/k/a “Twon,” and
ORONDEE JACQUELL
MAXWELL, a/k/a “Rock,”

Defendants.

No. CR 07-3004-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, I am giving you these Instructions to help you better understand the trial and your role in it and to instruct you on the law that you must apply in this case. Consider these instructions, together with all written and oral instructions given to you during or at the end of the trial, and apply them as a whole to the facts of the case. In considering these instructions, the order in which they are given is not important.

As I explained during jury selection, in an Indictment, a Grand Jury charges defendants Eddie Jermane Lee, Antione Diandre Maxwell, and Orondee Jacquell Maxwell with certain offenses allegedly involving cocaine base, which is commonly called “crack cocaine.” The offenses in question are the following: **Count 1** charges all three defendants with conspiracy to manufacture and distribute crack cocaine; **Counts 2, 5, 6, and 7** charge certain defendants with separate “possession with intent to distribute” offenses; and **Counts 3 and 4** charge defendant Orondee Jacquell Maxwell with separate “distributing crack cocaine” offenses. As I also explained during jury selection, an Indictment is simply an accusation. It is not evidence of anything. The defendants have each pled not guilty to the crimes charged against them, and each is presumed to be innocent of each offense unless and until the prosecution proves his guilt on that offense beyond a reasonable doubt.

Your duty is to decide from the evidence whether the defendants are not guilty or guilty of each charge against them. You will find the facts from the evidence.

You are the sole judges of the facts, but you must follow the law as stated in these instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, based solely on the evidence, your common sense, and the law as stated in these instructions. Do not take anything that I have done during jury selection or that I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be. Similarly, do not conclude from any ruling or other comment that I have made or may make that I have any opinions on how you should decide the case.

Please remember that only defendants Eddie Jermane Lee, Antione Diandre Maxwell, and Orondee Jacquell Maxwell, not anyone else, are on trial here. Also, remember that each defendant is on trial *only* for the offenses charged against him in the Indictment, not for anything else.

The defendants are entitled to be considered separately and to have the evidence on each charge against them considered separately. *Therefore, you must return a separate, unanimous verdict on each offense charged against each defendant.*

INSTRUCTION NO. 2 - PRELIMINARY MATTERS

Before I turn to specific instructions on the offenses charged in this case, I must explain some preliminary matters.

“Elements”

The offenses charged in this case each consist of “elements,” which the prosecution must prove beyond a reasonable doubt against a defendant charged with that offense in order to convict that defendant of that offense. I will summarize in the following instructions the elements of the offenses with which the defendants are charged.

Timing

The Indictment alleges that the offenses charged were committed “from about” one date “through” another date, or “on or about” a specific date. The prosecution does not have to prove with certainty the exact date of an offense charged. It is sufficient if the evidence establishes that an offense occurred within a reasonable time of the date or time period alleged for that offense in the Indictment.

Controlled substances

In these instructions, when I refer to a “controlled substance,” I mean any drug or narcotic that is regulated by federal law. “Cocaine base” is a “controlled substance.” Although there are various forms of “cocaine base,” the form that is at issue in this case is commonly known as “crack cocaine.” “Crack cocaine” is the street name for a form of cocaine base that is usually prepared by processing

cocaine hydrochloride and sodium bicarbonate (baking soda) and that usually appears in a lumpy, rocklike form. You must determine whether or not any form of “cocaine base” involved in any alleged offense was actually “crack cocaine,” as defined here. If you find that the substance was not “crack cocaine,” as defined here, then you cannot convict a defendant of an offense that allegedly involved “cocaine base.” Therefore, in the rest of these Instructions, I will refer to “crack cocaine” rather than “cocaine base.”

Nicknames

In the Indictment, the Grand Jury alleges that defendant Eddie Jermane Lee sometimes goes by the nickname or is also known as or identifies himself as “Wheezy”; that defendant Antione Diandre Maxwell sometimes goes by the nicknames or is also known as or identifies himself as “Twon”; and that defendant Orondee Jacquell Maxwell sometimes goes by the nickname or is also known as or identifies himself as “Rock.” The identity of a defendant as the person who committed a crime is an element of every crime. Therefore, the government must prove beyond a reasonable doubt not only that a crime alleged was actually committed, but also that the defendant charged with that crime was the person who committed it. The defendants do not have to prove that they did not commit the charged offenses, that someone else committed those offenses, or that they are not the persons identified by certain nicknames. Therefore, if the facts and circumstances that will be introduced in evidence leave you with a reasonable doubt as to whether or not a particular defendant is the person who committed a crime charged against him, then you must find him not guilty of that offense.

“Intent” and “Knowledge”

The elements of the charged offenses may require proof of what a defendant “intended” or “knew.” Where what a defendant “intended” or “knew” is an element of an offense, the defendant’s “intent” or “knowledge” must be proved beyond a reasonable doubt. “Intent” and “knowledge” are mental states. It is seldom, if ever, possible to determine directly the operations of the human mind. Nevertheless, “intent” and “knowledge” may be proved like anything else, from reasonable inferences and deductions drawn from the facts proved by the evidence.

An act was done “knowingly” if the defendant in question was aware of the act and did not act through ignorance, mistake, or accident. The prosecution is not required to prove that a defendant knew that his acts or omissions were unlawful. An act was done “intentionally” if it the defendant in question did it voluntarily, without coercion, and not because of ignorance, mistake, accident, or inadvertence.

“Possession,” “Distribution,” and “Delivery”

Some of the offenses charged in this case allegedly involved “distributing,” “possessing,” or “possessing with intent to distribute” a controlled substance. “Distribution,” in turn, involves “delivery” or transfer of “possession.” The following definitions of “possession,” “distribution,” and “delivery” apply in these instructions:

The law recognizes several kinds of “possession.” A person who knowingly had direct physical control over an item, at a given time, was then in “actual possession” of it. A person who, although not in actual possession, had both the power and the intention at a given time to exercise control over an item, either

directly or through another person or persons, was then in “constructive possession” of it. If one person alone had actual or constructive possession of an item, possession was “sole.” If two or more persons shared actual or constructive possession of an item, possession was “joint.” Whenever the word “possession” is used in these instructions, it includes “actual” as well as “constructive” possession and also “sole” as well as “joint” possession.

The term “distribute” means to deliver a controlled substance to the actual or constructive possession of another person. The term “deliver” means the actual, constructive, or attempted transfer of a controlled substance to the actual or constructive possession of another person. It is not necessary that money or anything of value changed hands for you to find that there was a “distribution” of a controlled substance or an “intent to distribute” a controlled substance. The law prohibits “possessing,” “possessing with intent to distribute,” and “distributing” a controlled substance; the prosecution does not have to prove that there was or was intended to be a “sale” of a controlled substance to prove that the controlled substance was “distributed” or “possessed with intent to distribute.”

* * *

I will now give you more specific instructions about the offenses charged in the Indictment.

**INSTRUCTION NO. 3 - COUNT 1: CONSPIRACY
TO MANUFACTURE AND DISTRIBUTE CRACK COCAINE**

Count 1 of the Indictment charges that, from about January 2003 through January 2007, defendants Eddie Jermane Lee, Antione Diandre Maxwell, and Orondee Jacquell Maxwell knowingly conspired with each other and with other persons, known and unknown to the Grand Jury, to commit either or both of the following offenses: (1) manufacturing 50 grams or more of crack cocaine; and (2) distributing 50 grams or more of crack cocaine. The defendants deny that they committed this “conspiracy” offense.

Elements

For you to find a particular defendant guilty of this “conspiracy” offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements against that defendant:

One, between January 2003 and January 2007, two or more persons reached an agreement or came to an understanding to distribute crack cocaine.

The prosecution must prove that the defendant in question reached an agreement or understanding with at least one other person. The other person or persons do not have to be defendants, or named in the Indictment, or otherwise charged with a crime. There is no requirement that any other conspirators be named as long as you find beyond a reasonable doubt that there was at least one other co-conspirator besides the defendant in question.

The “agreement or understanding” need not have been an express or formal agreement, or have been in writing, or have covered all the details of how it was to be carried out. Nor is it necessary that the members had directly stated between themselves the details or purpose of the scheme. In determining whether the alleged agreement existed, you may consider the actions and statements of all of the alleged participants, whether they are charged as defendants or not. The agreement may be inferred from all of the circumstances and the conduct of the alleged participants.

The Indictment alleges that the conspirators agreed to commit either or both of the following offenses or “objectives”: manufacturing 50 grams or more of crack cocaine and distributing 50 grams or more of crack cocaine. To assist you in determining whether there was an agreement to commit an offense identified as an objective of the conspiracy, you should consider the elements of that offense. The elements of a “*manufacturing offense*” are the following: (1) on or about the date alleged, a person manufactured the controlled substance in question; and (2) the person knew that he or she was, or intended to be, manufacturing a controlled substance. The elements of a “*distribution offense*” are the following: (1) on or about the date alleged, a person intentionally distributed a controlled substance to another; and (2) at the time of the distribution, the person knew that what he or she was distributing was a controlled substance.

Keep in mind, however, that to prove the “conspiracy” offense, the prosecution must prove that there was an *agreement* to commit either or both of the objectives alleged. The prosecution is *not* required to prove that any objective *was actually committed*. In other

words, the question is whether the defendant in question *agreed* to manufacture, distribute, or both manufacture and distribute crack cocaine, not whether that defendant or someone else *actually committed* any “manufacturing” or “distributing” offense.

If there was no agreement, there was no conspiracy. Similarly, if you find that there was an agreement, but you find that the defendant in question did not join in that agreement, or did not know the purpose of the agreement, then you cannot find that defendant guilty of the “conspiracy” charge.

Two, the defendant in question voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect.

You should understand that evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person joined in an agreement or understanding. A person who had no knowledge of a conspiracy, but who happened to act in a way that advanced some purpose of one, did not thereby become a member. Similarly, a defendant’s mere knowledge of the existence of a conspiracy, or mere knowledge that an objective of the conspiracy was being contemplated or attempted, is not enough to prove that defendant joined in the conspiracy; rather, the prosecution must establish that there was some degree of knowing involvement and cooperation by the defendant in question.

On the other hand, a person may have joined in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other

members were. Further, it is not necessary that a person agreed to play any particular part in carrying out the agreement or understanding. A person may have become a member of a conspiracy even if that person agreed to play only a minor part in the conspiracy, as long as that person had an understanding of the unlawful nature of the plan and voluntarily and intentionally joined in it.

In deciding whether a particular defendant voluntarily and intentionally joined in the agreement, you must consider only evidence of his own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that the defendant in question said or did.

Three, at the time that the defendant in question joined in the agreement or understanding, he knew the purpose of the agreement or understanding.

The defendant in question must have known of the existence and purpose of the conspiracy. Without such knowledge, a defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy. You may not find that the defendant in question knew the purpose of the agreement or understanding if you find that he was simply careless. A showing of negligence, mistake, or carelessness is not sufficient to support a finding that a particular defendant knew the purpose of the agreement or understanding.

If the prosecution fails to prove these elements beyond a reasonable doubt as to a particular defendant, then you must find that defendant not guilty of the “conspiracy” offense charged in **Count 1** of the Indictment.

Quantity of crack cocaine

In addition, if you find a particular defendant guilty of this “conspiracy” offense, then you must also determine beyond a reasonable doubt the quantity of any crack cocaine actually involved in the conspiracy for which that defendant can be held responsible. Although **Count 1** charges that a specific quantity of crack cocaine was involved in the conspiracy (50 grams or more), the prosecution does not have to prove that the offense involved the amount or quantity of crack cocaine alleged in the Indictment. However, *if* you find a particular defendant guilty of this “conspiracy” offense, *then* you must determine the following matters *beyond a reasonable doubt*: (1) whether that offense actually involved crack cocaine, as alleged in **Count 1** and defined in Instruction No. 2; and (2) the *total quantity*, in grams, of any crack cocaine involved in that offense for which that defendant can be held responsible. In making the required determinations, you may consider all of the evidence in the case that may aid in the determination of these issues.

A defendant guilty of ***conspiracy to manufacture and distribute crack cocaine***, as charged in **Count 1** of the Indictment, is responsible for the quantities of any crack cocaine that he actually manufactured or distributed or agreed to manufacture or distribute. Such a defendant is also responsible for those quantities of any crack cocaine that fellow conspirators manufactured or distributed or agreed to manufacture or distribute, if you find that the defendant in question could have reasonably foreseen, at the time that he joined the conspiracy or while the conspiracy lasted, that those prohibited acts were a necessary or natural consequence

of the conspiracy. Controlled substances acquired for personal use should be included when determining the drug quantity for a “conspiracy” offense.

If you find a particular defendant guilty of this “conspiracy” offense, then you must determine beyond a reasonable doubt the *total quantity*, in *grams*, of any crack cocaine involved in the offense for which you find that the defendant in question can be held responsible. You must then indicate in the Verdict Form the *range* within which that *total quantity* falls. Thus, if you find a defendant guilty of the “conspiracy” charge in **Count 1**, and that the offense involved crack cocaine, then you must determine beyond a reasonable doubt whether that defendant can be held responsible for 50 grams or more, 5 grams or more but less than 50 grams, or less than 5 grams of crack cocaine.

You may find more or less than the charged quantity of any crack cocaine for this offense, but you must find that the quantity you indicate in the Verdict Form has been proved beyond a reasonable doubt as the quantity for which the defendant in question can be held responsible on this offense.

In making your determination of quantity as required, it may be helpful to remember that one pound is approximately equal to 453.6 grams, and that one ounce is approximately equal to 28.34 grams.

**INSTRUCTION NO. 4 - COUNTS 2, 5, 6, AND 7: POSSESSING
WITH INTENT TO DISTRIBUTE CRACK COCAINE**

Counts 2, 5, 6, and 7 of the Indictment charge certain defendants with separate “possession with intent to distribute” offenses. More specifically, **Count 2** charges defendant Antione Diandre Maxwell with possessing, with intent to distribute, 4.12 grams of crack cocaine, on or about August 4, 2006; **Count 5** charges defendant Orondee Jacquell Maxwell with possessing, or aiding and abetting another to possess, with intent to distribute, approximately 2.22 grams of crack cocaine, on or about September 4, 2006; **Count 6** charges defendant Eddie Jermane Lee with possessing, or aiding and abetting another to possess, with intent to distribute, approximately 1 gram of crack cocaine on or about January 16, 2007; and **Count 7** charges defendant Eddie Jermane Lee with possessing, or aiding and abetting another to possess, with intent to distribute, 1.32 grams of crack cocaine on or about June 9, 2003. The defendants deny that they committed these offenses.

The Indictment charges that the “possession with intent to distribute” offense in **Count 2** was personally committed by the charged defendant, while the offenses charged in **Counts 5, 6, and 7** were committed in either of two different ways: personally committing the offense and aiding and abetting the offense. I will now explain the elements of these two alternatives.

Personal commission alternative

For all four “possession with intent to distribute” offenses, for you to find the defendant in question on such an offense guilty of the charged offense under the “personal commission” alternative, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, on or about the date identified in the charge in question, the defendant in question possessed crack cocaine.

“Possession” was defined for you in Instruction No. 2. “Crack cocaine” was also defined for you in Instruction No. 2. You must determine whether or not the substance in the defendant’s possession was, in fact, “crack cocaine,” as defined in Instruction No. 2, and if it was not, then you cannot convict the defendant in question of the charged offense, even if you find that he possessed some other controlled substance.

Two, the defendant in question knew that he was, or intended to be, in possession of a controlled substance.

“Knowledge” and “intent” were defined for you in Instruction No. 2. Additionally, the defendant in question need not have known what the controlled substance was, if the defendant knew that he had possession of some controlled substance.

Three, the defendant intended to distribute some or all of the controlled substance to another person.

Again, “intent” and “distribution” were defined for you in Instruction No. 2. In addition, you may, but are not required to, infer an “intent to distribute” from the following evidence: drug purity, suggesting that the drugs

were intended to be “cut” or diluted before distribution, if the evidence shows that the defendant was aware of such purity; the presence of firearms, cash, packaging material, or other distribution paraphernalia; and possession of a large quantity of crack cocaine in excess of what an individual user would consume.

If the prosecution fails to prove these elements beyond a reasonable doubt as to a particular “possession with intent to distribute” charge against a particular defendant, then you must find that defendant not guilty of personally committing the “possessing with intent to distribute” offense in question.

Aiding and abetting alternative

The Indictment charges that, as a second alternative for **Counts 5, 6, and 7**, the defendant in question aided and abetted another in the commission of the charged “possession with intent to distribute” offense in question. A person may be found guilty of an offense, even if that person did not personally do every act constituting that offense, if that person “aided and abetted” the commission of the offense.

For you to find a particular defendant guilty of a particular “possession with intent to distribute” offense on this “aiding and abetting” alternative, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

***One*, on or about the date alleged in the Count in question, some person or persons committed the charged offense of possessing, with intent to distribute, crack cocaine.**

The prosecution must first prove beyond a reasonable doubt that all of the essential elements of “personally committing” the “possession with intent to distribute” offense in question, as explained above, were committed by some person or persons on or about the date alleged in the Count in question. It is not necessary that the other person or persons be convicted or even identified.

***Two*, the defendant in question knew that the “possession with intent to distribute” offense in question was being committed or was going to be committed on the date in question.**

The aider and abettor must have known that what the other person possessed with intent to distribute was a controlled substance. The aider and abettor need not have known what the controlled substance was, if he knew that the person personally committing the offense was possessing, with intent to distribute, some controlled substance.

***Three*, the defendant in question knowingly acted in some way for the purpose of causing, encouraging, or aiding the other person to possess with intent to distribute crack cocaine.**

You should understand that evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person voluntarily aided and abetted the commission of an offense. A person who had

no knowledge that a crime was being committed or was going to be committed, but who happened to act in a way that advanced some purpose of that crime, did not thereby become criminally liable for that offense. Also, a person could not have “aided and abetted” the “possession with intent to distribute” offense, unless that person intended that some or all of the controlled substance would be possessed with intent to distribute it to another person.

If the prosecution fails to prove these elements beyond a reasonable doubt as to a particular defendant on a particular “possession with intent to distribute” offense, then you must find that defendant not guilty of “aiding and abetting” that offense.

If you find a particular defendant guilty of a particular “possession with intent to distribute” offense, you do not have to determine the quantity of crack cocaine involved in that offense.

**INSTRUCTION NO. 5 - COUNTS 3 AND 4: DISTRIBUTING
CRACK COCAINE**

Counts 3 and 4 of the Indictment charge defendant Orondee Jacquell Maxwell with separate “distributing crack cocaine” offenses. More specifically, **Count 3** charges defendant Orondee Jacquell Maxwell with distributing, or aiding and abetting another to distribute, approximately .65 grams of crack cocaine on or about October 30, 2006; and **Count 4** charges defendant Orondee Jacquell Maxwell with distributing, or aiding and abetting another to distribute, approximately .68 grams of crack cocaine on or about October 30, 2006. Defendant Orondee Jacquell Maxwell denies that he committed either of these “distribution” offenses.

The Indictment charges that the “distribution” offenses were committed in either of two different ways: personally committing the offense and aiding and abetting the offense. I will now explain the elements of these two alternatives.

Personal commission alternative

The Indictment charges, as the first alternative, that defendant Orondee Jacquell Maxwell personally committed the charged “distribution” offenses. For you to find defendant Orondee Jacquell Maxwell guilty of a particular “distribution” offense on this “personal commission” alternative, the prosecution must prove beyond a reasonable doubt *both* of the following essential elements:

One, on or about the date alleged in the Count in question, the defendant intentionally distributed crack cocaine to another.

“Distribution” was defined for you in Instruction No. 2. “Crack cocaine” was also defined for you in Instruction No. 2. You must determine whether or not the substance that the defendant distributed was, in fact, “crack cocaine,” as defined in Instruction No. 2, and if it was not, then you cannot convict the defendant of the charged offense, even if you find that he distributed some other controlled substance. In deciding whether the substance in question was crack cocaine, as defined, you may consider all of the evidence in the case that may aid in the determination of that issue.

Two, at the time of the distribution, the defendant knew that what he was distributing was a controlled substance.

The defendant need not have known what the controlled substance was, if he knew that he had possession of some controlled substance.

If the prosecution fails to prove these elements beyond a reasonable doubt as to defendant Orondee Jacquell Maxwell on a particular “distribution” offense, then you must find him not guilty of “personal committing” that “distribution” offense.

Aiding and abetting alternative

The Indictment charges, as the second alternative, that defendant Orondee Jacquell Maxwell aided and abetted another in the commission of the charged “distribution” offenses. A person may be found guilty of an offense, even if that

person did not personally do every act constituting that offense, if that person “aided and abetted” the commission of the offense.

For you to find defendant Orondée Jacquell Maxwell guilty of a particular “distribution” offense on this “aiding and abetting” alternative, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, on or about the date alleged in the Count in question, some person or persons distributed crack cocaine to another.

The prosecution must first prove beyond a reasonable doubt that both of the essential elements of “personally committing” the distribution of crack cocaine, as explained above, were committed by some person or persons on or about the date alleged in the Count in question. It is not necessary that the other person or persons be convicted or even identified.

Two, the defendant in question knew that the distribution of a controlled substance was being committed or was going to be committed on the date in question.

The aider and abettor must have known that what was being distributed or going to be distributed was a controlled substance. The aider and abettor need not have known what the controlled substance was, if he knew that the person personally committing the offense was distributing or was going to distribute some controlled substance.

Three, the defendant in question knowingly acted in some way for the purpose of causing, encouraging, or aiding the distribution of crack cocaine.

You should understand that evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person voluntarily aided and abetted the commission of an offense. A person who had no knowledge that a crime was being committed or was going to be committed, but who happened to act in a way that advanced some purpose of that crime, did not thereby become criminally liable for that offense. Also, a person could not have “aided and abetted” the distribution of crack cocaine, unless that person intended that some or all of the controlled substance would be distributed to another person.

If the prosecution fails to prove these elements beyond a reasonable doubt as to defendant Orondee Jacquell Maxwell on a particular “distribution” offense, then you must find that defendant not guilty of “aiding and abetting” that “distribution” offense.

If you find defendant Orondee Jacquell Maxwell guilty of a particular “distribution” offense, you do not have to determine the quantity of crack cocaine involved in that offense.

INSTRUCTION NO. 6 - THE DEFENDANTS' SPECIFIC DEFENSES

In addition to denying that the prosecution has proved the charges against them beyond a reasonable doubt, the defendants assert the following specific defenses to the charges against them.

Eddie Jermane Lee contends that he merely associated with individuals who were allegedly involved in criminal activity, but that he only associated with them for social pleasure, not to engage in criminal activity.

Antione Diandre Maxwell contends that he simply hung around with friends or family members and that some of those friends and family members may have been involved in criminal conduct, but that he did not engage in criminal activity.

Orondee Jacquell Maxwell denies that he had any part in any conspiracy to manufacture or distribute crack cocaine or that he committed any of the other crimes charged against him. He contends that he was simply in the wrong place at the wrong time and that, even if he had contact with others who did manufacture, distribute, or possess with intent to distribute crack cocaine, he did not have personal knowledge of their illegal activities. More specifically, he contends that he has never been present at the following addresses in Mason City, Iowa, where drug activity charged in this case allegedly occurred: 536 East State Street; 11 South Jefferson; and 326 8th Street. He also contends that, although he was present at 1514 Pennsylvania in Mason City on September 4, 2006, the alleged date of the offense charged in **Count 5**, he was meeting up with friends to go out that evening, and he did not conspire then, there, or ever to manufacture or distribute crack

cocaine and did not personally possess or aid and abet another to possess any crack cocaine with intent to distribute it. He also admits that he allowed a person by the name of Ricky Hayes to use his cell phone, but contends that he is not aware of the person to whom Ricky Hayes was talking or what Ricky Hayes discussed with anyone in those calls.

As I have previously instructed you, evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person voluntarily engaged in criminal activity with those persons, either by conspiring with them, participating with them, or aiding and abetting them in the commission of an offense. A person who had no knowledge that a crime was being committed or was going to be committed, but who happened to act in a way that advanced some purpose of that crime, did not thereby become criminally liable for that offense. Therefore, the prosecution must establish that a defendant had some degree of knowing involvement and cooperation in a charged offense for you to find that defendant guilty of that offense. Therefore, you must determine each defendant's guilt or innocence based solely on the evidence that relates to that defendant's conduct, not on the basis of his mere association with others who may have engaged in criminal conduct.

In considering each defendant's specific defense to the charges against him, remember that the burden never shifts to a defendant in a criminal case to prove his specific defense or otherwise to prove his innocence. Rather, the prosecution must

prove beyond a reasonable doubt all of the essential elements of an offense against a defendant for you to find that defendant guilty of that offense.

INSTRUCTION NO. 7 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Each defendant is presumed innocent and, therefore, not guilty. This presumption of innocence requires you to put aside all suspicion that might arise from a defendant's arrest or charge or the fact that he is here in court. The presumption of innocence remains with each defendant throughout the trial. That presumption alone is sufficient to find a defendant not guilty. The presumption of innocence may be overcome as to a particular charge against a particular defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of that offense in question against that defendant.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant to prove his innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, if a defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that a particular defendant has committed each and every element of an offense charged against him, you must find that defendant not guilty of that offense.

INSTRUCTION NO. 8 - REASONABLE DOUBT

I have previously instructed you that, for you to find a particular defendant guilty of a charged offense, the prosecution must prove the elements of that offense “beyond a reasonable doubt” as to that defendant. A reasonable doubt may arise from the evidence produced by either the prosecution or any defendant, keeping in mind that the defendants never have the burden or duty of calling any witnesses or producing any evidence. A reasonable doubt may also arise from the prosecution’s lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. On the other hand, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 9 - DEFINITION OF EVIDENCE

Your verdict must be based only on the evidence presented in this case and these and any other instructions that may be given to you during the trial. Evidence is:

1. Testimony.
2. Exhibits that are admitted into evidence.
3. Stipulations, which are agreements between the parties.

Evidence may be “direct” or “circumstantial.” The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony that I tell you to disregard.
4. Anything that you see or hear about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the

weight of the evidence is not determined merely by the number or volume of documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict the witness's testimony. The quality and weight of the evidence are for you to decide.

INSTRUCTION NO. 10 - RECORDED CONVERSATIONS

As part of the evidence in this case, you may hear one or more recordings. The conversations on such recordings were legally recorded, and you may consider the recordings just like any other evidence. The recordings may be accompanied by a typed transcript. You are permitted to view a transcript for the purposes of helping you to follow the conversation as you hear a recording and helping you to keep track of the speakers.

A transcript, if present, may undertake to identify the speakers engaged in the conversation. However, the identity of the speakers as set out in a transcript is not evidence; rather, it is merely the opinion of the person who transcribed the recording. Whether or not a transcript correctly or incorrectly identifies the speakers is entirely for you to decide based upon what you hear about the preparation of the transcript in relation to what you hear on the recording.

Also, a recording itself is the primary evidence of its own contents. Whether a transcript correctly or incorrectly reflects a conversation is entirely for you to decide based on what you hear about the preparation of that transcript in relation to what you hear on the recording. If you decide that a transcript of a conversation is in any respect incorrect or unreliable, then you should disregard it to that extent. Differences in meaning between what you hear in a recording of a conversation and read in a transcript, if available, may be caused by such things as the inflection in

a speaker's voice. You should, therefore, rely on what you hear, rather than what you read, when there is a difference.

Similarly, if you find that any portion of a recording is inaudible or partially inaudible, because of such things as actual gaps in the recording or other noise on the recording, or if you hear something different from what is indicated in the transcript in a portion of the recording that is inaudible or partially inaudible, then you must disregard the transcript to the extent that the transcript attempts to indicate what the persons on the recording said during the inaudible or partially audible portions. You may also consider whether inaudible or partially audible portions of the recording indicate that the recording has been altered or damaged, such that it is unreliable, in whole or in part. Again, the recording itself, not any transcript, is the primary evidence of the contents of the recording.

**INSTRUCTION NO. 11 - EVIDENCE OF THE DEFENDANTS'
PRIOR CONVICTIONS AND OTHER "BAD ACTS"**

You may also hear evidence that the defendants have previously been convicted of felony drug offenses or that they engaged in similar, but uncharged drug activity. You may not use this evidence concerning a particular defendant to decide whether that defendant carried out the acts involved in the crimes charged in the Indictment in this case. However, if you are convinced beyond a reasonable doubt, on other evidence introduced, that the defendant in question did carry out the acts involved in the crimes charged against him in the Indictment, then you may use this evidence of his prior conviction of a similar offense or evidence that he engaged in similar, but uncharged drug activity to help you determine the defendant's intent, knowledge, motive, and lack of mistake or accident in carrying out the acts involved in the crimes charged against him in the Indictment in this case.

Remember, even if you find that a particular defendant may have committed a similar act in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed similar acts in the past. The defendants are on trial only for the crimes charged against them in the Indictment in this case, and you may consider the evidence of a particular defendant's prior convictions and prior "bad acts," if any, only on the issues of that defendant's intent, knowledge, motive, and lack of mistake or accident in carrying out the acts involved in the crimes charged in the Indictment

in this case. You may use a particular defendant's prior convictions or bad acts in this way only as to that defendant, not as to any other defendant.

INSTRUCTION NO. 12 - CREDIBILITY AND IMPEACHMENT

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

If a defendant testifies, you should judge his testimony in the same manner in which you judge the testimony of any other witness.

Ordinarily, witnesses may only testify to factual matters within their personal knowledge. However, you may hear evidence from persons described as experts. Persons may become qualified as experts in some field by knowledge, skill, training, education, or experience. Such experts may state their opinions on matters in that field and may also state the reasons for their opinions. You should consider

expert testimony just like any other testimony. You may believe all of what an expert says, only part of it, or none of it, considering the expert's qualifications, the soundness of the reasons given for the opinion, the acceptability of the methods used, any reason the expert may be biased, and all of the other evidence in the case.

Just because a witness works in law enforcement or is employed by the government does not mean you should give more weight or credence to such a witness's testimony than you give to any other witness's testimony.

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony. If earlier statements of a witness are admitted into evidence, they will not be admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness and, therefore, whether they affect the credibility of that witness.

You may hear evidence that some witnesses have each been convicted of a crime. You may use that evidence only to help you decide whether or not to believe these witnesses and how much weight to give their testimony.

You should treat the testimony of certain witnesses with greater caution and care than that of other witnesses:

1. You may hear evidence that certain witnesses are testifying pursuant to plea agreements and hope to receive reductions in their sentences

in return for their cooperation with the government in this case. If the prosecutor handling such a witness's case believes the witness has provided "substantial assistance," the prosecutor can file a motion to reduce the witness's sentence. The judge has no power to reduce a sentence for such a witness for substantial assistance unless the U.S. attorney files a motion requesting such a reduction. If the motion for reduction of sentence for substantial assistance is filed by the U.S. attorney, then it is up to the judge to decide whether to reduce the sentence of that witness at all, and if so, how much to reduce it. You may give the testimony of such witnesses such weight as you think it deserves. Whether or not testimony of a witness may be influenced by the witness's hope of receiving a reduction in sentence is for you to decide.

2. You may also hear testimony from certain witnesses that they participated in the crime charged against the defendants. Their testimony will be received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may be influenced by his or her desire to please the government or to strike a good bargain with the government about his or her own situation is for you to determine.

3. You may also hear evidence that certain witnesses are testifying in the hope that the government will not file charges against them. Their testimony will be received in evidence and you may consider it. You may give such witnesses' testimony such weight as you think it deserves. Whether

or not such a witness's testimony may be influenced by the witness's hope that the government will not file charges against him or her is for you to determine.

4. You may hear evidence that certain witnesses had an arrangement with the government under which the witnesses received a specified benefit for providing information to the government. Their testimony will be received in evidence and you may consider it. You may give the testimony of this witness such weight as you think it deserves. Whether or not testimony of a witness may be influenced by receiving such a benefit is for you to decide.

5. You may hear evidence that certain witnesses used or were addicted to addictive drugs during the period of time about which the witness will testify. You should consider whether the testimony of these witnesses might be affected by their drug use at the time of the events about which they testify.

* * *

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight you think it deserves.

INSTRUCTION NO. 13 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

INSTRUCTION NO. 14 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

INSTRUCTION NO. 15 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

INSTRUCTION NO. 16 - CONDUCT OF THE JURY DURING TRIAL

You must decide this case based *solely* on the evidence presented in court, in light of your own observations, experiences, reason, and common sense. Therefore, to insure fairness, you, as jurors, must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case or about anyone involved with it until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it, or about any news story, rumor, or gossip about this case, or ask you about your participation in this case until the trial has ended and your verdict has been accepted by me. If someone should try to talk to you about the case during the trial, please report it to me.

Fourth, during the trial, you should not talk with or speak to any of the parties, lawyers, or witnesses involved in this case—you should not even pass the time of day with any of them. It is important that you not only do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party, or witness does not speak to you

when you pass in the hall, ride the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case or about anyone involved with it, or let anyone tell you anything about any such news reports. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own.

Seventh, do not make up your mind during the trial about what the verdict should be. Do not discuss this case with anyone, not even with other jurors, until I send you to the jury room for deliberations after closing arguments. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Eighth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will deliver it to me. I want you to be comfortable, so please do not hesitate to inform me of any problem.

INSTRUCTION NO. 17 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. *Your verdict on each charge against each defendant must be unanimous.* It is your duty to consult with one another and to deliberate with a view to reaching agreement if you can do so without violence to your individual judgment. Of course, you must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself; but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations you should not hesitate to re-examine your own views, and to change your opinion if you are convinced that it is wrong. To bring twelve minds to an unanimous result, you must examine the questions submitted to you openly and frankly, with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish a particular defendant's guilt beyond a reasonable doubt on an offense charged against him, then he should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for that defendant on that offense. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes a particular defendant's guilt beyond a reasonable doubt on an offense, then your vote should be for a verdict of guilty against that defendant on that charge, and if all of you reach that conclusion,

then the verdict of the jury must be guilty for that defendant on that offense. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of an offense charged against a particular defendant, or you cannot find that defendant guilty of that offense.

Remember, also, that the question before you can never be whether the government wins or loses the case. The government, as well as society, always wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not partisans; you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial, or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, the case is left open and must be disposed of at some later time.

INSTRUCTION NO. 18 - DUTY DURING DELIBERATIONS

There are certain rules you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, if a particular defendant is guilty of a charged offense, then the sentence to be imposed is my responsibility. You may not consider punishment of any defendant in any way in deciding whether the prosecution has proved its case against that defendant beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically.*

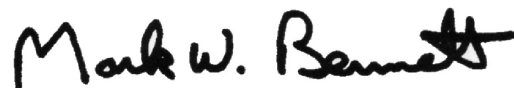
Fourth, your verdict must be based solely on the evidence and on the law in these instructions. Therefore, you must return a separate, unanimous verdict on each charge against each defendant. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, in your consideration of whether a particular defendant is not guilty or guilty of an offense charged against him, you must not consider that defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict

for or against any defendant on any charge unless you would return the same verdict on that charge without regard to that defendant's race, color, religious beliefs, national origin, or sex. To emphasize the importance of this consideration, the verdict form contains a certification statement. Each of you should carefully read the statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects the manner in which each of you reached your decision.

Finally, I am giving you the verdict form. A verdict form is simply the written notice of the decision that you reach in this case. You will take the verdict form to the jury room. When you have reached a unanimous verdict, your foreperson must complete one copy of the verdict form and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 22nd day of May, 2007.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive, slightly stylized font.

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDDIE JERMANE LEE, a/k/a
“Wheezy,” ANTIONE DIANDRE
MAXWELL, a/k/a “Twon,” and
ORONDEE JACQUELL
MAXWELL, a/k/a “Rock,”

Defendants.

No. CR 07-3004-MWB

VERDICT FORM

I. EDDIE JERMANE LEE

As to defendant Eddie Jermane Lee, we, the Jury, unanimously find as follows:

COUNT 1: CONSPIRACY TO MANUFACTURE AND DISTRIBUTE CRACK COCAINE		VERDICT
Step 1: Verdict	On the “conspiracy” offense, as charged in Count 1 of the Indictment and explained in Instruction No. 3, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

Step 2:	<i>If you found the defendant “guilty” of the offense charged in Count 1, please indicate (a) the objective or objectives of the conspiracy, and (b) the quantity of crack cocaine involved in the conspiracy for which the defendant can be held responsible. (Quantity of crack cocaine is also explained in Instruction No. 3, beginning on page 11.)</i>	
(a) Objective(s)	_____ Manufacturing crack cocaine	_____ Distributing crack cocaine
(b) Quantity of crack cocaine	_____ 50 grams or more of crack cocaine _____ 5 grams or more, but less than 50 grams of crack cocaine _____ less than 5 grams of crack cocaine	
COUNT 6: POSSESSION WITH INTENT TO DISTRIBUTE		VERDICT
Step 1: Verdict	On the charge of “possessing with intent to distribute crack cocaine” on January 16, 2007, as charged in Count 6 of the Indictment and explained in Instruction No. 4, please mark your verdict.	_____ Not Guilty _____ Guilty
Step 2: Alternative(s)	<i>If you found the defendant guilty of this offense, please indicate the alternative or alternatives on which you found him guilty</i>	
	_____ personal commission	_____ aiding and abetting
COUNT 7: POSSESSION WITH INTENT TO DISTRIBUTE		VERDICT
Step 1: Verdict	On the charge of “possessing with intent to distribute crack cocaine” on June 9, 2003, as charged in Count 7 of the Indictment and explained in Instruction No. 4, please mark your verdict.	_____ Not Guilty _____ Guilty
Step 2: Alternative(s)	<i>If you found the defendant guilty of this offense, please indicate the alternative or alternatives on which you found him guilty</i>	
	_____ personal commission	_____ aiding and abetting

CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

Date

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

II. ANTIONE DIANDRE MAXWELL

As to defendant Antione Diandre Maxwell, we, the Jury, unanimously find as follows:

COUNT 1: CONSPIRACY TO MANUFACTURE AND DISTRIBUTE CRACK COCAINE		VERDICT
Step 1: Verdict	On the “conspiracy” offense, as charged in Count 1 of the Indictment and explained in Instruction No. 3, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2:	<i>If you found the defendant “guilty” of the offense charged in Count 1, please indicate (a) the objective or objectives of the conspiracy, and (b) the quantity of crack cocaine involved in the conspiracy for which the defendant can be held responsible. (Quantity of crack cocaine is also explained in Instruction No. 3, beginning on page 11.)</i>	
(a) Objective(s)	<input type="checkbox"/> Manufacturing crack cocaine	<input type="checkbox"/> Distributing crack cocaine
(b) Quantity of crack cocaine	<input type="checkbox"/> 50 grams or more of crack cocaine <input type="checkbox"/> 5 grams or more, but less than 50 grams of crack cocaine <input type="checkbox"/> less than 5 grams of crack cocaine	
COUNT 2: POSSESSION WITH INTENT TO DISTRIBUTE		VERDICT
On the charge of “possessing with intent to distribute crack cocaine” on August 4, 2006, as charged in Count 2 of the Indictment and explained in Instruction No. 4, please mark your verdict.		<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
CERTIFICATION		
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.		

Date

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

III. ORONDEE JACQUELL MAXWELL

As to defendant Orondee Jacquell Maxwell, we, the Jury, unanimously find as follows:

COUNT 1: CONSPIRACY TO MANUFACTURE AND DISTRIBUTE CRACK COCAINE		VERDICT
Step 1: Verdict	On the “conspiracy” offense, as charged in Count 1 of the Indictment and explained in Instruction No. 3, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2:	<i>If you found the defendant “guilty” of the offense charged in Count 1, please indicate (a) the objective or objectives of the conspiracy, and (b) the quantity of crack cocaine involved in the conspiracy for which the defendant can be held responsible. (Quantity of crack cocaine is also explained in Instruction No. 3, beginning on page 11.)</i>	
(a) Objective(s)	<input type="checkbox"/> Manufacturing crack cocaine	<input type="checkbox"/> Distributing crack cocaine
(b) Quantity of crack cocaine	<input type="checkbox"/> 50 grams or more of crack cocaine <input type="checkbox"/> 5 grams or more, but less than 50 grams of crack cocaine <input type="checkbox"/> less than 5 grams of crack cocaine	
COUNT 3: DISTRIBUTING CRACK COCAINE		VERDICT
Step 1: Verdict	On the charge of “distributing crack cocaine” on October 30, 2006, as charged in Count 3 of the Indictment and explained in Instruction No. 5, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2: Alternative(s)	<i>If you found the defendant guilty of this offense, please indicate the alternative or alternatives on which you found him guilty</i>	
	<input type="checkbox"/> personal commission	<input type="checkbox"/> aiding and abetting

COUNT 4: DISTRIBUTING CRACK COCAINE		VERDICT
Step 1: Verdict	On the charge of “distributing crack cocaine” on October 30, 2006, as charged in Count 4 of the Indictment and explained in Instruction No. 5, please mark your verdict.	____ Not Guilty ____ Guilty
Step 2: Alternative(s)	<i>If you found the defendant guilty of this offense</i> , please indicate the alternative or alternatives on which you found him guilty	
	____ personal commission	____ aiding and abetting
COUNT 5: POSSESSION WITH INTENT TO DISTRIBUTE		VERDICT
Step 1: Verdict	On the charge of “possessing with intent to distribute crack cocaine” on September 4, 2006, as charged in Count 5 of the Indictment and explained in Instruction No. 4, please mark your verdict.	____ Not Guilty ____ Guilty
Step 2: Alternative(s)	<i>If you found the defendant guilty of this offense</i> , please indicate the alternative or alternatives on which you found him guilty	
	____ personal commission	____ aiding and abetting
CERTIFICATION		
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.		

Date

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror